

*Orig to hand 10 Nov 1959
by 12 Nov 1959 SP*

10 NOV 1959

MEMORANDUM FOR: Comptroller

SUBJECT: Uses of Surplus Money from New Building Appropriation

1. We understand that the question has been raised in connection with Bureau of the Budget presentations as to whether or not surplus money from the new building appropriation may properly be used for furnishings.

2. As you know, section 401 of the Military Construction Act of 1955 specifically provides that:

"The Director of Central Intelligence is authorized to provide for a headquarters installation for the Central Intelligence Agency, in the District of Columbia or elsewhere, by the acquisition of land at a cost not to exceed \$1,000,000 and construction of buildings, facilities, appurtenances, utilities, and access roads at a cost of not to exceed \$54,500,000 . . ." (emphasis supplied).

3. The Comptroller General has been quite strict in his interpretation of language used in appropriation acts. The decision reported at 7 Comp. Gen. 474 dealt with an appropriation for the construction of two additional stories on the Liberty Loan Building. In holding that the language of the appropriation did not permit purchase of window shades and awnings the Comptroller General stated in part:

"The appropriation made by the act of December 22, 1927, was for completion of construction of two additional stories to the Liberty Loan Building and it is a well settled rule that the appropriation for the construction of a building is available only for the cost of construction proper and for equipment and fixtures permanently attached to the building and so essentially a part thereof that the removal of the same might cause substantial damage to the building. 26 Comp. Dec. 111.

"Window shades and awnings are not under the law to be considered in such category. They may be installed and removed as may be found necessary without affecting the building in which they are placed. They can not, therefore, be considered as part of the construction of the building, and the cost thereof may not legally be charged to the appropriation made for the construction of the building unless specific provision therefor be made in such appropriation.

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"Accordingly, you are advised that the special appropriation for the completion of the construction of the two additional stories in the Liberty Loan Building is not available for the purchase and installation of the window shades and awnings in question."

On the other hand, it was stated in 7 Comp. Gen. 619 that while an appropriation made for enlarging and remodeling a building is not as a rule available for the purchase and installation of furniture, when it appears that the appropriation is specifically made available for equipment and the amount appropriated includes an item for furniture, etc., such appropriation properly may be used for the purchase and installation of the necessary furniture. The decision reported at 9 Comp. Gen. 217 affirms the principles set forth at 7 Comp. Gen. 475 and 619 respectively, referred to above, in approving the installation of a cafeteria and equipment in the new Department of Commerce Building, while the Comptroller General at 12 Comp. Gen. 488 disapproved the use of the construction appropriation for the installation of portable fire extinguishers or their racks stating:

"The fact that the appropriation properly chargeable with the installation of fire extinguishers in new buildings is inadequate, does not authorize the use therefor of the construction appropriation. 7 Comp. Gen. 474."

4. It will be seen that the language of the construction act does not provide specifically for furnishings or equipment nor do we feel that it may be so interpreted. While this matter has not been submitted formally to the General Accounting Office, we have discussed it on an informal basis with a member of the staff of the General Counsel to the Comptroller General, who specializes in appropriation matters, and it was his opinion that the language of the construction act, in the light of the decisions of the Comptroller General referred to above, would preclude the use of surplus appropriation funds for other than "the cost of construction proper".

S/ Lawrence R. Houston

LAWRENCE R. HOUSTON
General Counsel

cc: DD/S
Logistics

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